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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,295	03/01/2004	Herman Lee	1970-9	9267
7590	12/15/2004		EXAMINER	
John S. Egbert Harrison & Egbert 7th Floor 412 Main Street Houston, TX 77002			PRUCHNIC, STANLEY J	
			ART UNIT	PAPER NUMBER
			2859	
			DATE MAILED: 12/15/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/790,295	LEE ET AL.
	Examiner	Art Unit
	Stanley J. Pruchnic, Jr.	2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 March 2004 (PRELIMINARY AMENDMENT)  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-8 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 01 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 6/14/04 (1 sheet)
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Preliminary Amendment Status***

1. The preliminary amendment to the Claims and the Abstract have been entered, but the amendments to the Specification filed on 3/1/04 (in the Transmittal Papers) does not comply with the requirements of 37 CFR 1.121(h), which states "Each section of an amendment document (e.g., amendment to the claims, amendment to the specification, replacement drawings, and remarks) must begin on a separate sheet."

In order to expedite prosecution, this "informal" amendment has been considered "Not Entered". Please resubmit the amendment with your response to this Office Action.

### ***Specification***

2. The disclosure is objected to because of the following informalities: Please correct the description of the drawings in Paragraphs [0008] to [0013] as intended in the Preliminary Amendment. If paragraphs need correction, please present the entire paragraph.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6676290 B1 (Lu; Hsueh-Yu, hereinafter LU).

**LU** discloses an electrical thermometer as claimed by Applicant in Claims 1-6, comprising (Col. 2, Liens 9-22):

- a main body (shell 5; Fig. 2);
- a metallic tip 5 (Figs. 3, 4) connected to the main body 5 as a shell having an opening end and a closed end;
- a thermal conductive glue 3 positioned inside the closed end of the metallic tip;
- a thermal sensor 1 fixed in the thermal conductive glue 3; and
- a thermal insulator 4 positioned between the opening end of the metallic tip and the thermal conductive glue.

Further regarding Claim 2, **LU** discloses the volume of the thermal conductive glue less than one-quarter of the inner space of the metallic tip, as claimed by Applicant (Figs. 3, 4).

Further regarding Claim 3, **LU** discloses the main body has a tapered probe portion (Fig. 2) on which the metallic tip 51 is mounted.

Further regarding Claim 4, **LU** discloses the thermal sensor is fixed on the inner wall (Fig. 4) of the metallic tip by adhesive (glue 3; Col. 2, Lines 14-15).

Further regarding Claim 5, **LU** discloses the thermal sensor has a plurality of electrically conductive wires 2, which transmit electric signals of the thermal sensor

Further regarding Claim 6, **LU** discloses the electrically conductive wires are pressed against the inner wall of the metallic tip (Figs. 4-8; Col. 2, Lines 42-51; also Col. 2, Liens 18-21).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over LU in view of US 4688949 A (Hatakenaka; hereinafter **HATAKENAKA**).

LU, to summarize, discloses all the limitations as claimed by Applicant in Claim LU as described above in Paragraph 4 as applied to Claims 1-6, further including the disclosure that wires 2 are connected to electronics 52.

LU as described above, does not explicitly disclose the main body further comprises a display unit and a switch functioning as claimed by Applicant in Claims 7 and 8.

**HATAKENAKA** discloses (Col. 5, Lines 2-11) both a display unit 21 for indicating a numerical value of patient body temperature and a push button type power switch.

**HATAKENAKA** is evidence that ordinary workers in the field of clinical thermometry would recognize the benefit of using a display and switch as taught by **HATAKENAKA** for the clinical thermometer of **LU** in order to activate the device and for indicating a numerical value of patient body temperature.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add a display and power switch for the clinical thermometer of **LU** in order to trigger the start of the measurement and display of the numerical value of patient body temperature as taught by **HATAKENAKA**.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in a form PTO-892 and not mentioned above disclose related temperature measurement devices and methods.

- US 6637935 B2 (Chen; Min-Ying)
- US 6250802 B1 (Dotan; Simon)
- US 4411535 A (Schwarzschild; Jack)
- US 4183248 A (West; Roger A.)
- US 3678751 A (Mead; Carver A. et al.)
- US 3402378 A (SHEW RUSSELL F et al.)

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stanley J. Pruchnic, Jr., whose telephone number is **(571) 272-2248**. The examiner can normally be reached on weekdays (Monday through Friday) from 7:30 AM to 4:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. F. Gutierrez can be reached at **(571) 272-2245**.

The **Official FAX** number for Technology Center 2800 is **(703) 872-9306** for **all official communications**.

Any inquiry of a general nature or relating to the status of this application or proceeding may be directed to the official USPTO website at <http://www.uspto.gov> or you may call the **USPTO Call Center** at **800-786-9199** or 703-308-4357. The Technology Center 2800 Customer Service FAX phone number is (703) 872-9317.

The cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site ([www.uspto.gov](http://www.uspto.gov)), from the Office of Public Records and from commercial sources.

Private PAIR provides external customers Internet-based access to patent application status and history information as well as the ability to view the scanned images of each customer's own application file folder(s).

For inquiries relating to Patent e-business products and service applications, you may call the **Patent Electronic Business Center (EBC)** at **703-305-3028** or toll free at **866-217-9197** between the hours of **6 a.m. and midnight Monday through Friday EST**, or by e-mail at: [ebc@uspto.gov](mailto:ebc@uspto.gov). Additional information is available on the Patent EBC Web site at: <http://www.uspto.gov/ebc/index.html>.



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12/12/04